

The Gazette



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## NOTICE

The undermentioned Gazette of India Extraordinary was published during the week ending the 20th August 1951 :—

Issue No.	No. and Date	Issued by	Subject
128	S. R. O. 1264, dated the 18th August 1951.	Ministry of Law.	Constitution (Removal of Difficulties) Order No. II (Third Amendment) Order, 1951.

Copies of the Gazette Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

## PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

## MINISTRY OF HOME AFFAIRS

New Delhi the 22nd August, 1951

**S.R.O. 1309.**—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends the Madras Live-stock Improvement Act, 1940 (Madras Act XV of 1940), as at present in force in the State of Madras, to the State of Delhi, subject to the following modifications namely :—

*Modifications*

In the said Act—

(1) Except as otherwise expressly provided, for the words "State Government", "Director" and "Fort St. George Gazette", wherever they occur, the words "Chief Commissioner", "Deputy Superintendent" and "Official Gazette" respectively shall be substituted.

(2) In sub-sections (2) and (3) of section 1 for the words "the State of Madras", the words "the State of Delhi" shall be substituted.

(3) For clause (c) of section 2 the following clause shall be substituted ; namely :—

"(c) 'Deputy Superintendent' means the officer appointed by the Chief Commissioner as the Deputy Superintendent, Civil Veterinary

Department and includes any other person on whom the powers or duties of the Deputy Superintendent are conferred or imposed under section 3 of this Act."

(4) In clause (c) of sub-section (1) of section 5 the words "in the district or part of the district in which it is kept" shall be omitted.

(5) In clause (a) of section 10 for the words from "officer of the Animal Husbandry Department" to "rank of Revenue Inspector" the words "officer of the Veterinary Department not below the rank of Veterinary Assistant Surgeon or an officer of the Agriculture Department not below the rank of Agriculture Assistant or an officer of the Revenue Department not below the rank of the Naib-tahsildar", shall be substituted.

(6) In section 14, for the words "Animal Husbandry" the word "Veterinary" shall be substituted.

(7) In sub-sections (1) and (2) of section 17 and section 18 for the words "servant of the State Government" the words "servant of the Government" shall be substituted.

2. The text of the said Act as modified is published as an annexure to the notification.

## ANNEXURE

### MADRAS ACT No. XV OF 1940

*An Act to provide for the improvement of live-stock in the Province of Madras*

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the **Madras Live-stock Improvement Act, 1940.**

(2) It extends to the whole of the State of Delhi.

(3) This section shall come into force at once and the Chief Commissioner may from time to time by notification in the Official Gazette apply all or any of the remaining provisions of this Act to the whole or any portion of the State of Delhi from such date and from such period, if any, as may be specified in the notification and may cancel or modify any such notification.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(a) "Bull" includes a buffalo-bull;

(b) "cow" includes a buffalo-cow and a heifer;

(c) "Deputy Superintendent" means the officer appointed by the Chief Commissioner as Deputy Superintendent, Civil Veterinary Department and includes any other person on whom the powers or duties of the Deputy Superintendent are conferred or imposed under section 3 of this Act.

- (d) "licence" means a licence granted under section 4 ;
- (e) "licensing officer" means the Deputy Superintendent or any other officer or person authorized to grant licences under section 4 ;
- (f) "prescribed" means prescribed by rules made under this Act
- (g) a person is said to "keep a bull" if he owns the bull or has the bull in his possession or custody ; and
- (h) a bull is said to be "castrated" if it is rendered incapable of propagating its species.

3. *Appointment of Director.*—The Chief Commissioner may by general or special order confer or impose on any person all or any of the powers or duties of a Deputy Superintendent under this Act.

4. *Bulls which have attained a certain age to be licensed.*—(1) No person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under this section, unless it is certified by the prescribed officer that the bull has been effectively castrated by a method and in a manner approved by the Deputy Superintendent.

*Explanation.*—Where a person keeps more than one bull, he shall obtain a separate licence in respect of each bull.

(2) Every licence under this section shall be granted by the Deputy Superintendent or any officer or person authorized by him by general or special order. It shall be in such form, for such period, and subject to such terms, conditions and restrictions as may be prescribed.

No fee shall be charged for the grant of the licence.

5. *Refusal and revocation of licences.*—(1) Subject to such rules as may be prescribed, the licensing officer may refuse to grant or may revoke a licence in respect of any bull if in his opinion the bull appears to be—

(a) of defective or inferior conformation and consequently likely to beget defective or inferior progeny, or

(b) suffering from an incurable contagious or infectious disease or from any other disease rendering the bull unsuitable for breeding purposes, or

(c) of a breed which it is undesirable to propagate.

(2) The licensing officer may also revoke a licence granted in respect of any bull kept within his jurisdiction (whether such licence was granted by himself or by any other officer) if in his opinion—

(a) the licence was granted under circumstances of which the licensing officer was not aware at the time of granting the licence, or

(b) there has been a breach of any of the terms, conditions or restrictions of the licence.

(3) If a licence is revoked under this section, the officer revoking the licence shall give notice thereof to the person keeping the bull or to the person stated in the licence to be the owner of the bull. The notice shall set out the grounds for the revocation.

(4) No person shall be entitled to any compensation for the refusal or revocation of any licence under this section.

6. *Surrender of licence.*—A licence granted in respect of a bull shall be surrendered without delay to the licensing officer, if

(a) the period specified in the licence expires, or

(b) the licence is revoked under this Act, or

(c) the bull dies, or is certified by the prescribed officer to have been effectively castrated by a method and in a manner approved by the Deputy Superintendent.

7. *Inspection of bulls*.—The licensing officer may by order require any person keeping a bull to submit it for inspection by himself or by any officer or person deputed by him for the purpose, at any reasonable time, either at the place where the bull is kept for the time being or at any other reasonable place specified in the order, and thereupon it shall be the duty of the person keeping the bull to submit it for inspection accordingly, and render all reasonable assistance in connexion with such inspection to the officer concerned.

8. *Power to order castration of bulls*.—(1) The licensing officer may by order require any person keeping a bull which in his opinion has attained the prescribed age, and in respect of which no licence is for the time being in force under this Act, to have it castrated, within one month from the date of the service of the order, by a method and in a manner approved by the Deputy Superintendent and specified in the order.

(2) Such castration shall be performed or caused to be performed by the licensing officer free of charge, unless the owner or other person keeping the bull desires to make his own arrangements for complying with the order.

9. *Duty to inform owner of contents of notice, or order of castration*.—If any notice or order is served under section 5, section 7, or section 8 on any person who is not the owner of the bull, it shall be the duty of that person forthwith to take all reasonable steps to inform the owner of the contents of such notice or order, and if he fails to do so, he shall be liable to indemnify the owner against any loss the owner may sustain by reason of such failure.

10. *Production of licence*.—It shall be the duty of any person who for the time being keeps a bull in respect of which a licence has been obtained and is in force, to produce such licence—

(a) within a reasonable time, at any place where the bull is for the time being, on demand made by a licensing officer or an officer of the Veterinary Department not below the rank of Veterinary Assistant Surgeon, or an officer of the Agricultural Department not below the rank of Agriculture Assistant or an officer of the Revenue Department not below the rank of Naib Tahsildar, or such other officer as may be authorized in this behalf by the Chief Commissioner by general or special order, or

(b) before a cow is served by the bull, on demand made by the person in charge of the cow.

11. *Penalties*.—Whoever—

(a) keeps a bull in contravention of this Act or of any rule or order made thereunder, or of any terms, conditions or restrictions of a licence, or

(b) neglects or fails to submit a bull for inspection when required to do so, under section 7, or

(c) neglects or fails to comply with an order served under section 8, or

(d) neglects or fails to produce a licence when required to do so under section 10,

shall be punishable with fine which may extend to fifty rupees and in the case of a second or any subsequent offence with fine which may extend to one hundred rupees.

12. *Power of licensing officer to castrate bulls*.—(1) If a person who keeps a bull neglects or fails to submit it for inspection, or to have it castrated when required to do so under section 7, or section 8, the licensing officer may direct that the

bull shall be castrated by a method and in a manner approved by the Deputy Superintendent and marked with a prescribed mark in the prescribed manner, free of charge.

(2) (a) If it is not known in whose ownership, possession or custody a bull is for the time being and the fact cannot be ascertained after an inquiry in the prescribed manner, the licensing officer may seize the bull or cause it to be seized, and if he is of opinion that the bull has attained the prescribed age and is unsuitable for breeding purposes on any of the grounds specified in sub-section (1) of section 5 may direct that the bull shall be castrated by a method and in a manner approved by the Deputy Superintendent and marked with a prescribed mark in the prescribed manner, free of charge.

(b) Every bull seized under clause (a) shall, after it has been castrated and marked as aforesaid where necessary, be sold by public auction or sent to a pinjrapole or infirmary recognized by the Chief Commissioner in this behalf.

(c) In case the owner of any bull seized under clause (a) appears before the licensing officer within such time as may be prescribed in this behalf and proves to the satisfaction of such officer that the bull is owned by him—

(i) in case the bull has been sold by public auction, the proceeds of such sale shall be paid to the owner after deducting therefrom the costs, charges and expenses incurred for the maintenance and sale of the bull; and

(ii) in any other case, the bull shall be delivered to the owner on payment of the costs, charges and expenses incurred for its maintenance.

(d) The costs, charges and expenses referred to in sub-clauses (i) and (ii) of clause (c) shall be determined in the prescribed manner.

13. *Power of licensing officer, etc., to inspect or mark bulls and to enter premises.*—For the purposes of this Act, a licensing officer or any officer or person authorized by him in this behalf shall have power at all reasonable times—

(a) to inspect any bull;

(b) to mark any bull with a prescribed mark in the prescribed manner; and

(c) subject to such conditions and restrictions, if any, as may be prescribed, to enter any premises or other place where he has reason to believe that a bull is kept.

14. *Duty of officers to report offences, etc.*—It shall be the duty of all village officers and servants and of all officers of the Veterinary, Agricultural and Revenue Departments—

(a) to give immediate information to the nearest licensing officer of the Commission of any offence, or of the intention or preparation to commit any offence punishable under this Act, which may come to their knowledge;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about or likely to be committed; and

(c) to assist any licensing officer in carrying out the provisions of this Act.

15. *Cognizance of offences.*—No Magistrate shall take cognizance of any offence under this Act except upon a complaint made by a licensing officer or any person authorized by such officer in this behalf.

16. *Officers to be public servants.*—The Deputy Superintendent, every licensing officer, all officers and persons authorized by the Deputy Superintendent or a

censing officer under this Act, and all village officers and servants, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code XLV of 1860).

17. *Bar of certain proceedings.*—(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act without the previous sanction of the Chief Commissioner.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

18. *Limitation for certain suits and prosecutions.*—No suit shall be instituted against the State and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

19. *Revision.*—The Chief Commissioner may at any time either *suo motu* or on application, call for and examine the record of any order passed by, or any proceedings recorded by, any officer or person under this Act, for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings, and may pass such order in reference thereto as they think fit.

Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

20. *Power to make rules.*—(1) The Chief Commissioner may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the circumstances in which duplicates of licences may be granted, the fees which may be charged for the grant of such duplicates, and the conditions, restrictions and limitations subject to which they may be granted;
- (c) the powers to be exercised and the duties to be performed by officers appointed under this Act, and the procedure of such officers; and
- (d) the service of notices and orders issued under this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the Chief Commissioner may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(5) All rules made under this section shall be published in the *Gazette of India* and upon such publication shall have effect as if enacted in this Act.

21. *Saving.*—Nothing contained in this Act shall apply to a bull dedicated in good faith to a religious purpose in accordance with any religious usage or custom, provided that notice of the dedication is given in the prescribed manner to the licensing officer.

[20/4/51-Judl.]

R. N. PHILIPS, Dy. Secy

**MINISTRY OF EXTERNAL AFFAIRS**

*New Delhi, the 22nd August 1951*

**S.R.O. 1310.**—In exercise of the powers conferred by Section 4 of the Foreign Jurisdiction Act, 1947 (XLVII of 1947), the Central Government hereby directs that the following amendment shall be made in the Chandernagore (Application of Laws) Order, 1950, namely :—

In the Schedule to the said Order after the entry relating to the Code of Civil Procedure, 1908, the following entry shall be inserted, namely :—

“1946. The Essential Supplies (Temporary Powers) Act, 1946”.

[No. 437-Eur. I.

U. S. BAJPAI, Under Secy.

**MINISTRY OF STATES**

*New Delhi, the 29th August 1951*

**S.R.O. 1311.** In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Kutch the Bombay Local Funds Audit Act, 1930 (Bombay Act XXV of 1930), as in force for the time being in the State of Bombay subject to the following modifications, namely :—

(1) Throughout the Act—

- (i) for the words “ State Government ”, the words “ Chief Commissioner ” shall be substituted.
- (ii) for the word “ Commissioner ”, the word “ Collector ” shall be substituted.

(2) In Section 2—

for the words “ the Bombay Presidency except the City of Bombay ”, the words “ the State of Kutch ” shall be substituted.

(3) In clause (c) of section 3—

for the words “ the Bombay Primary Education Act, 1923 ”, the words “ any law or order in force in Kutch ” shall be substituted.

(4) In sub-section (2) of section 6, after the words and figures “ Bombay Municipal Boroughs Act, 1925 ”, the words “ as applied to Kutch ” shall be inserted.

(5) In clause (b) of sub-section (1) of section 13 for the words “ which shall pass such orders thereon as it thinks fit ”, the words “ who shall pass such orders thereon as he thinks fit ”, shall be substituted.

(6) Sub-section (3) of section 15 and section 16 shall be omitted.

*Annexure*

The Bombay Local Funds Audit Act, 1930 (Bombay Act XXV of 1930) as modified by this notification.

**BOMBAY ACT NO. XXV OF 1930**

1. *Short Title.*—This Act may be called the Bombay Local Fund Audit Act 1930.

2. *Extent.*—This Act extends to the whole of the State of Kutch.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(a) “ Auditor ” means the Examiner or any other person empowered by (the Chief Commissioner) to perform the functions of an auditor under this Act.

(aa) ‘ Chairman ’ means the president or chairman of the local authority and includes in the case of a dissolved or superseded local authority, the person or persons lawfully appointed to exercise the powers and perform the duties of such local authority ;

(ab) ‘ Detailed audit ’ means an audit of accounts for the whole year ;

(b) “ Examiner ” means the Examiner of Local Fund Accounts and includes the Assistant Examiner of Local Fund Accounts.

(c) “ Local authority ” means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904. (Bom. I of 1904), as applied to Kutch and includes a school board constituted under any law or order in force in Kutch (Bom. IV of 1923).

(d) “ Local Fund ” means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

(e) ‘ Special audit ’ means an audit of accounts pertaining to a specified item or series of items requiring thorough examination.

4. *Liability of local authorities to submit their accounts for audit.*—The accounts of any local authority whose accounts are declared by Chief Commissioner, by a notification in the Official Gazette to be subject to audit under this Act shall, notwithstanding anything contained in any enactment by which such local authority is constituted or in any rules made thereunder be subject to audit in all respects in the manner provided by or under this Act.

5. *Accounts to be submitted for audit at such period or periods as may be required.*—The Chairman of every local authority, whose accounts are declared under section 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under section 15 to the auditor yearly or at such period or periods as may be required by the Collector.

6. *Power of auditor to require production of documents and attendance of persons concerned etc.*—(1) For the purpose of any audit under this Act, an auditor may—

(a) require in writing the production at the head office of the local authority of such vouchers, statements, returns correspondence, notes or other documents in relation to the accounts as he may think fit ;

(b) require in writing any salaried servant of the local authority accountable for, or having the custody or control of (such vouchers, statements, returns correspondence, notes or other documents) or any person having directly, indirectly, by himself or his partner, any share or interest in any contract with or under the local authority to appear in person before him at the head office of the local authority and answer any question ;

(c) in the event of an explanation being required from the chairman or other honorary officer or member of a local authority in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.

(2) The auditor may, in any requisition or invitation made under sub-section (1), fix a reasonable period, not being less than three days in the case of



a District Local Board or of a Municipality constituted under the Bombay Municipal Boroughs Act, 1925, (Bom. XVII of 1925) as applied to Kutch within which the said requisition or invitation shall be complied with.

(3) The auditor shall give to the local authority not less than two weeks' notice in writing of the date on which he proposes to commence the audit:

Provided that, notwithstanding anything contained in this sub-section, the auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence a special or detailed audit on the authority of the Collector or the Examiner without giving notice.

7. *Penalty for disobeying requisition under section 6.*—(1) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) of sub-section (1) of section 6 shall be liable, on conviction before a Magistrate, to a fine, which may extend to one hundred rupees:

Provided that no proceedings under this section shall be instituted except on the written sanction of the Collector:

Provided further that before giving such sanction the Collector shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

(2) No court inferior to that of a Magistrate of the first class shall try any offence against this Act.

8. *Audit report to be sent to certain officers and bodies as the Chief Commissioner may direct.*—As soon as practicable after the completion of the audit, but not later than three months thereafter, the Examiner shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copies thereof to such officers and bodies as the Chief Commissioner may direct.

9. *Audit report what to contain.* The Examiner shall include in his report a statement of—

- (a) every payment which appears to him to be contrary to law
- (b) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person.
- (c) the amount of any sum received which ought to have been but is not brought into account by any person, and
- (d) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (a), (b) and (c) above.

10. *Local authority to remedy defects. Procedure to be followed after report of the Examiner under section 8.*—(1) On receipt of a report under section 8, the chairman shall remedy any defects or irregularities which may have been pointed out in the report, and shall place the report, together with a statement of the action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the local authority. He shall also, within three months of the receipt of the report, send to the Examiner intimation of his having remedied the defects or irregularities if any, pointed out in the report, or shall, within the said period supply the Examiner any further explanation in regard to such defects or irregularities as the local authority may wish to give.

(2) On receipt of such intimation or explanation the Examiner may, in respect of all or any of the matters discussed in his report.

- (a) accept the intimation or explanation given by the Chairman and withdraw the objection, or
- (b) direct that the matter be re-investigated at the next audit or at any earlier date, or
- (c) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied

(3) The Examiner shall send a report of his decision to the Collector within one month of the date of the receipt by him of the intimation or explanation of the chairman referred to in sub-section (1) or in the event of the chairman failing to give such intimation or explanation, on the expiry of the period of three months mentioned in the said sub-section and shall forward a copy of such report to the chairman. If the Examiner holds that any defects or irregularities have not been removed or remedied he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and if so, by what method; and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state, whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged:

Provided that in the case of reports on the accounts of school boards and of such local authorities as are specially notified by the Chief Commissioner in this behalf the report referred to in this sub-section shall be submitted by the Examiner to such officer, being the head of a department, as the Chief Commissioner may direct. Such officer shall take such action as may be necessary regarding any defects or irregularities falling under clause (c) of sub-section (2) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate should be surcharged or charged, he shall forward the report of the Commissioner together with his recommendation in that behalf.

(4) The local authority concerned shall publish in its next administration report such portions of the report under section 8 as deal with defects and irregularities falling under clause (c) of sub-section (2), together with the explanation thereof, if any given under sub-section (1) and the final report of the Examiner thereon under sub-section (3). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt and shall also be published in the regional language of the district in any newspaper circulating in the district selected by the local authority within one month of the receipt by it of the copy of the report sent to the Collector under sub-section (3).

(5) If the Chairman fails to give the intimation or explanation referred to in sub-section (1) within the period therein mentioned the Collector may, at the instance of the Examiner, publish in the regional language of the district the whole of the Examiner's report under section 8, together with any observations which the Collector may make thereon in any newspaper circulating in the district which the Collector may select and the cost of such publication shall be forthwith paid by the local authority concerned. If such cost is not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the local authority, as its officer treasurer, banker or otherwise, to pay the amount of such cost from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made pursuant to such order shall be sufficient discharge to such person from all liability to the local authority in respect of any amount paid by him out of the moneys of the local authority so held by him.

(6) Nothing in this section or in section 9 shall preclude the Examiner at any time from bringing to the notice of the Collector for such action as the Collector may consider necessary, any information which appears to the Examiner to support a presumption of criminal misappropriation or fraud or which in his opinion deserves special attention or immediate investigation.

11. *Collector to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.*—(1) The Collector may, after considering the recommendation of the Examiner or of any head of a department under the proviso to sub-section (3) of section 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which

appears to him to be contrary to law and surcharge the same on the person making, or authorizing the making of, the illegal payment, and may charge against any person responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person or any sum received which ought to have been but is not brought into account by that person and shall in every such case, certify the amount due from such person :

Provided that no order of surcharge or charge shall be made under this Act in respect of any item included, or which ought to have been included in, but was omitted from, any accounts for any period prior to the 1st April 1930.

(2) The Collector shall state in writing the reasons for his decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(3) If a person to whom a copy of the Collector's decision is sent under sub-section (2) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

12. *Recovery of surcharges and charges how made.* - (1) Every sum certified by the Collector to be due from any person under sub-section (1) of section 11 shall be paid by such person into the treasury or bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the Collector unless within that time such person has applied to the Court or to the Chief Commissioner as provided in section 13.

(2) The said sum, if not duly paid, or, if an application has been made to the Court or to the Chief Commissioner against the decision of the Collector as provided in sub-section (1) of section 13 such sum as the Court or the Chief Commissioner shall declare to be due, shall be recoverable, on an application made by the Collector to the Court, in the same way as an amount decreed by the Court in favour of the Collector.

13. *Application against order of surcharge or charge.*—(1) Any person aggrieved by any order of surcharge or charge made by the Collector under sub-section (1) of section 11 may, within one month from the receipt by him of the decision of the Collector either—

(a) apply to the District Court to set aside such order; and the Court; after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such orders as to costs as it thinks proper in the circumstances; or

(b) in lieu of such application apply to the Chief Commissioner who shall pass such orders thereon as he thinks fit.

(2) Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

14. *Expenses in respect of requisitions of auditors to be payable out of local fund.* - All expenses incurred by a local authority in complying with any requisition of an auditor under sub-section (1) of section 6 shall be payable out of its local fund.

15. *Rules.*—(1) The Chief Commissioner may make rules, not inconsistent with this Act, for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented

(b) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times at which such audit may be conducted ; and

(c) the manner in which all matters required to be published under this Act shall be published.

16. (Amendments made by section 16 have been incorporated in the principal Acts.)

[No. 189-J.]

A. N. SACHDEV, Under Secy.

## MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 23rd August 1951

**S.R.O. 1312.**—In pursuance of sub-rule (2) of rule 4 of the Rehabilitation Finance Administration Rules, 1948, the Central Government hereby appoints Shri Lakshmi Kant Moitra, a non-official member of the Rehabilitation Finance Administration, to attend any meeting of the Regional Committee at Calcutta and take part in its deliberation.

[No. F.10(16)-F.I/51.]

**S.R.O. 1313.**—In pursuance of sub-section (1) of section 5 of the Rehabilitation Finance Administration Act, 1948 (XII of 1948), read with sub-rule (1) of rule 2 of the Rehabilitation Finance Administration Rules, 1948, the Central Government hereby reconstitutes Regional Committees consisting of the following members, for the branches of the Rehabilitation Finance Administration at Bombay and Calcutta :

### *Regional Committee, Bombay*

- |   |                         |
|---|-------------------------|
| 1. Officer-in-charge, Bombay Branch of the Rehabilitation Finance Administration ;  | } Ex-officio.           |
| 2. Director of Rehabilitation, Government of Bombay, Bombay ;   |                         |
| 3. Director of Industries, Government of Bombay, Bombay ;   | } Official members.     |
| 4. Sir Chuni Lal B. Mehta, Marwari Bazar, Bombay ;  |                         |
| 5. Shri Khanchand Gopaldas, President, Sindhi Pan-chayats' Federation, Peoples' Building, Sir Phirozshah Mehta Road, Bombay—1 ; | } Non-official members. |
| 6. Shri R. K. Sidhya, Member of Parliament  |                         |

### *Regional Committee, Calcutta*

- |  |               |
|--|---------------|
| 1. Officer-in-charge, Calcutta Branch of the Rehabilitation Finance Administration ; | } Ex-officio. |
|  |               |

- |   |                         |
|---|-------------------------|
| 2. Shri B. C. Chatterjee, Director of Refugee Rehabilitation, Government of West Bengal, Calcutta ; | } Official members.     |
| 3. Director of Industries, Government of West Bengal Calcutta ;                                     |                         |
| 4. Shri J. M. Datta, Stock Exchange, Calcutta ,   | } Non official members. |
| 5. Shri D. N. Mukerjee, M.L.A., West Bengal, Calcutta ;   |                         |
| 6. Shri Kedar Nath Chatterjee, Editor, Modern Review, Calcutta.                                     |                         |

[No. 10 (16) FI/51].

F. C. DHAUN, Under Secy.

**CENTRAL BOARD OF REVENUE****INCOME-TAX***New Delhi, the 21st August, 1951.*

**S.R.O. 1314.**—In pursuance of sub section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in the Schedule appended to its notification No. 32-Income-tax, dated the 9th November, 1946, namely :—

In the said Schedule under the sub-head '1—Madras and Mysore' for the existing Ranges and Income-tax Circles, the following Ranges and Income-tax Circles shall be substituted, namely :—

*Vijayawada Range.*

- (1) Vizianagaram.
- (2) Vizagapatam.
- (3) Coconada.
- (4) Rajahmundry.
- (5) Ellore.
- (6) Masulipatam.
- (7) Vijayawada.
- (8) Guntur.
- (9) Tenali.
- (10) Bapatla.
- (11) Kurnool.
- (12) Special Survey Circle No. 1. Vijayawada.

*Madras 'A' Range.*

- (1) Madras City Circle I
- (2) Madras City Circle IV.
- (3) Madras Salaries Circle.
- (4) Madras (Special) Central.
- (5) Vellore.
- (6) Salem.
- (7) Bangalore (Urban).
- (8) Bangalore (Rural).
- (9) Salary Circle, Bangalore.

- (10) Tumkur.
- (11) Devangore.
- (12) Hassan.
- (13) Mysore.
- (14) Shimoga.
- (15) Kolar.

*Madras 'B' Range.*

- (1) Madras City Circle III.
- (2) Madras Hindi Circle.
- (3) Madras (Special North).
- (4) Cuddapah.
- (5) Anantapur.
- (6) Bellary.
- (7) Erode.
- (8) Madras Special Circle.
- (9) Special Survey Circle No. II, Madras.

*Madras 'C' Range.*

- (1) Kancheepuram.
- (2) Cuddalore.
- (3) Nagapattinam.
- (4) Tanjore.
- (5) Nellore
- (6) Chittoor.
- (7) Madras (Special) South
- (8) Madras (Special) East.
- (9) Madras City Circle II.

*Tiruchirapalli Range.*

- (1) Tiruchirapalli.
- (2) Karaikudi.

*Madura Range.*

- (1) Madura.
- (2) Madura (Special) Circle.
- (3) Virudhunagar.
- (4) Tirunelveli.
- (5) Tuticorin.
- (6) Dindigul.
- (7) Special Survey Circle No. III, Madurai.

*Coimbatore Range.*

- (1) Coimbatore.
- (2) Coimbatore (Special) Circle.
- (3) Ootacamund.
- (4) Palghat
- (5) Calicut.
- (6) Mangalore.
- (7) Coorg.
- (8) Special Survey Circle No. IV, Coimbatore.

## MINISTRY OF COMMERCE AND INDUSTRY

*Bombay, the 27th August 1951*

**S.R.O. 1315.**—In pursuance of sub-clause (i) of clause 3 of the Cotton Textiles (Control of Movement) Order, 1948, I hereby direct that the following further amendment shall be made in the General Permit No. 1, dated the 13th August 1949, namely :—

In paragraph 6 of the said General Permit, item No. (xlii) shall be deleted and items Nos. (xliii) and (xliv) shall be renumbered as items Nos. (xlii) and (xliii) respectively.

T. SWAMINATHAN,  
Textile Commissioner.  
[File No. 15-CTA/31.]

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[No. TCS IV/CTM/6.]

S. A. TECKCHANDANI, Under Secy.

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*New Delhi, the 28th August 1951*

**S.R.O. 1316.**—In exercise of the powers conferred by section 3 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby specifies the goods mentioned in the Schedule hereto annexed as goods to which the said Act shall apply.

## SCHEDULE

## I. Cotton Card Clothing and Card Clothing Sundries for Flat Cards :—

1. Cylinder Fillet
2. Doffer Fillet
3. Sets of Tops
4. Stripping Fillet
5. Furnishing Fillet
6. Hand Stripping Cards
7. Waltons Brushes
8. Spiral Strips
9. Phillipsons Sheets
10. Phillipsons Top Clearer Strips
11. Ashworths Top Clearer Strips
12. Ashworths Dirt Roller Fillet
13. Rhodes Stripping Fillet
14. Lickerin Wire
- 15. Blued Steel Wire for Roving Waste Openers
16. Card Tasks
17. Raising Fillet.

## For Waste and Wedding Cards :—

18. Cylinder Fillet
19. Doffer Fillet
20. Roller Fillet
21. Clearer Fillet

22. Fancy Fillet
  23. Under Clearer Fillet
  24. Fancy Stripper Fillet
  25. Humbug Fillet
  26. Feed Roller Fillet
  27. Lockerin Fillet
  28. All other Card Clothing and Sundries.
- II. Shuttles for use in Textile looms other than Jute and Hemp :—
1. Shuttles for looms (Ordinary)
  2. Shuttles for looms (Automatic).
- III. Dyes derived from Coal-Tar.
- IV. Hydrosulphit of Soda.
- V. Starch.
- VI. Ring Spinning Frames and Mules for manufacture of Cotton Yarn.

[No. PC-2(33)/51.]

**S.R.O. 1317.**—In exercise of the powers conferred by section 22 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the powers conferred on it by sections 4 and 10, clauses (a) and (b) of section 13, sub-section (1) of section 16 and section 19 of the said Act shall, in respect of the goods specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1316, dated the 28th August 1951, be exercisable also by the Textile Commissioner, Bombay.

[No. PC-2(33)/51.]

**S.R.O. 1318.**—In exercise of the powers conferred by section 22 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the powers conferred on it by clauses (a) and (b) of section 13, sub-section (1) of section 16 and section 19 of the said Act shall, in respect of the goods specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1316, dated the 28th August 1951, be exercisable also by the Director (Machinery, Fuel and Stores), Office of the Textile Commissioner, Bombay and the Deputy Director (Machinery, Fuel and Stores), Office of the Textile Commissioner, Bombay.

[No. PC-2(33)/51.]

**S.R.O. 1319.**—In exercise of the powers conferred by section 22 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the powers conferred on it by clause (c) of section 13, shall, in respect of starch, be exercisable also by the Textile Commissioner, Bombay.

[No. PC-2(33)/51.]

S. K. DATTA, Dy. Secy.

## MINISTRY OF FOOD AND AGRICULTURE

### AGRICULTURE

*New Delhi, the 22nd August 1951*

**S.R.O. 1320**—In exercise of the powers conferred by section 4A of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following amendments shall be made in the Rules published with the notification of the Government of India in the late Ministry of Agriculture No. F.9-12/49-PPS, dated the 24th June 1950, namely :—

In the said Rules—

- (1) In the preamble for the words “the Part A and Part C States” the words “any part of India” shall be substituted.



(2) In rule 3 for the words "other Part A State or Part C State" the words "part of India" shall be substituted.

[No. F. 6-21/51-Dto.I]

*New Delhi, the 28th August 1951*

**S.R.O. 1321.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the Order published with the notification of the Government of India in the late Department of Education, Health and Lands No. 1581-Agri., dated the 1st October, 1931, namely :—

In the said O. de —

1. In the preamble the word "British" shall be omitted.
2. In paragraph 2 for the words "Part A States and Part C States" the word "India" shall be substituted.

[No. F. 6-26/51-Dto. I.]

J. V. A. NEHEMIAH, Dy. Secy.

New Delhi, the 25th August 1951

S.R.O. 1322.—In pursuance of the provision of Rule 19 (4) of the Indian Lac Cess Rules, the Central Government are pleased to publish the following audited account of Receipts and Payments of the Indian Lac Cess Committee for the year ending the 31st March, 1950:—

## INDIAN LAC CESS COMMITTEE

*Receipts and Payments Account for the year ended 31st March 1950.*

Opening balance as on 1st April, 1949.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Payments during the year.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Secretary I.L.C.C. .	699 3 9			(a) Administration of the Committee. Secretary's Office .	33,500 15 6		
Director, I.L.R.I. .	1,291 7 1			Crop Statistics Sec.	11,489 9 3		
H.C. for India, London	Nil.	1,990 10 10		Special Lac Officer.	581 14 0	45,552 6 9	
Bank balances.				(b) Measures taken to improve and de- velop methods of cultivation and manufacture of lac: Director I.L.R.I. .		3,46,043 6 10	
Secretary, I.L.C.C. .	1,27,080 8 3			(c) Measures taken to improve and de- velop the marketing of Indian Lac: Shellac cum Tobacco Sales officer, U.K.	35,500 0 0		
Director, I. L.R.I. .	35,163 4 1			Deduct contribution made by I.C.T.C. at 50: 50 basis	17,750 0 0		
Deposit by I.C.T.C. .	4,585 3 11	1,66,829 0 3		(d) Miscellaneous .	Nil	4,09,345 13 7	
Investments . . .		7,16,964 8 1		Closing balances as on 31st March, 1950			
Imprest with Secre- tary on Postage Ac- count . . . . .		30 0 0		Cash Balances: Secretary I.L.C.C. .	2,953 6 0		
Suspense:				Director, I.L.R.I. .	2,554 15 7	5,508 5 7	
Director, I.L.R.I. .							
Ty. Advance 0-9-0							
Suspense 220-2-0							
220-11-0							
Deduct amount due to P.F. 3-1-0							
217-10-0							
Secretary I.L.C.C. Nil	217 10 0	217 10 0	8,86,031 13 2				

*Receipts during the year*

(a) Money received under section 8 of the Act (Lac Cess Collections) . . .

[5,20,953 3 0

(b) Other moneys received by the Committee:

Secretary, I.L.C.C. . . . . 105 0 0

Director, I.L.R.I. . . . . 7,800 13 3

(c) Interests received from investments . . .

17,840 13 6

5,46,499 13 9

*Deduct*—Loss in redemption of securities . . .

3,790 10 0 5,42,709 3 9

(d) Contribution by the I.C.T.C. towards expenditure during 1943-50 on account of Sales Officer for Shellac cum Tobacco U. K. . . .

13,165 0 0

14,41,906 0 11

*Deduct* the amount adjusted on account of I.C.T.'s share of expenditure . . .

17,750 0 0

TOTAL . 14,24,156 0 11

*Bank Balances:*

Secretary, I.L.C.C. . . 1,11,549 11 11

Director, I.L.R.I. . . 27,912 4 9

H. C. for India, London . . . 2,521 8 0 1,41,983 8 8

Investments . . . 8,03,814 6 1

*Suspense:*

Secretary's Office:

Lac Cess collection . . 59,526 7 0

T. A. advance . . . 250 0 0 59,776 7 0

Director, I.L.R.I.

Ty. advance 230-0-0

Suspense 3,467-8-0 3,697 8 0 63,473 15 0

Imprest with Secretary on postage Account . . .

30 0 0 10,14,810 3 4

TOTAL . 14,24,156 0 11

Examined and found correct. (Sd.) S. A. SHARMA

3-8-51.

Examiner Local Accounts, Bihar.

(Sd.) PRITAM SINGH, Secretary  
Indian Lac Cess Committee.

2-8-51.

[No. F. 4-39/51-Comm. I.]

S. K. GHOSE, Under Secy.

## MINISTRY OF EDUCATION

### ARCHAEOLOGY

*New Delhi, the 22nd August 1951*

**S.R.O. 1323.**—In exercise of the powers conferred by sub-section (3) of section 3 of the Ancient Monuments Preservation Act, 1904 (VII of 1904), the Central Government is pleased to confirm its notification in the Ministry of Education No. F. 4-10/50-A.2., dated the 9th December, 1950 declaring the ancient monument (Buddhist mounds locally known as "Dhans Dibbalu") to be a protected monument within the meaning of the said Act.

[No. F. 4-10/50-A.2]

B. CHATTERJEE, Under Secy.

## MINISTRY OF HEALTH

*New Delhi, the 23rd August 1951*

**S.R.O. 1324.**—The following draft of further amendments to the Drugs Rules 1945, which it is proposed to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said sections for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st December, 1951. Any objections or suggestions which may be received from any person in respect of the said draft before the date specified will be considered by the Central Government

### *Draft Amendment*

In 'Part I—Vaccines' of Schedule F to the said Rules, under the heading '(A) Provisions Applicable to the Production of Factorial Vaccines' in paragraph 6 the following clause shall be added at the end, namely:—

"(3) In the case of Anti-typhoid-paratyphoid (T.A.P.) Vaccine, the date of expiry of potency shall be indicated on the label of the container. For this purpose, the date of expiry of potency of the vaccine shall be calculated as 18 months from the date of its manufacture."

[No. F. 1-17/51-DS.]

J. N. SAKSENA, Under Secy.

## MINISTRY OF TRANSPORT

### PORTS

*New Delhi, the 22nd August 1951*

**S.R.O. 1325.**—In pursuance of section 9 of the Madras Port Trust Act, 1905 (Madras Act II of 1905), the name of the following person who has been elected as a Trustee of the Port of Madras is hereby published for general information:—

Shri V.M.P. Muthuswamy.... Elected by the Southern India Chamber of Commerce.

[No. 13-P. I. (15)/51-B.]

*New Delhi, the 23rd August 1951*

**S.R.O. 1323.**—In exercise of the powers conferred by clauses (b) and (c) and item (2) of clause (c) of section 5 of the Bombay Landing and Wharfage Fees Act, 1882 (Bombay Act VII of 1882), as applied to the Ports of Mandvi, Mundra, Koteswar, Lakpat and Jakhau by Notification of Government of India in Ministry of Transport No. 20-M(6)/50-I, dated the 4th October, 1950, the Central Government hereby determines the entire wharf wall at the minor port of Mandvi as a public landing place to which the provisions of the said Act shall apply and fixes a fee of one anna as the fee to be levied on every passenger embarking or disembarking at the said wharf wall with effect from the 1st September, 1951.

[No. 20-M(6)/50.]

S. PARASURAMAN, Dy Secy.

**MINISTRY OF LABOUR***New Delhi, the 29th August 1951*

**S.R.O. 1327.**—In exercise of the powers conferred by sub-section (1) of section 6 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government hereby appoints the Conciliation Officers (Central), Bombay, to be inspectors at the port of Bombay for the purposes of the said Act.

[No. Far. 73 (4)]

N. M. PATNAIK, Dy. Secy.

*New Delhi, the 22nd August 1951*

**S.R.O. 1328.**—The following draft of an amendment to the Coal Mines Rescue Rules, 1939, which it is proposed to make in exercise of the powers conferred by section 30A of the Indian Mines Act, 1923 (IV of 1923), is published as required by sub-section (1) of section 31 of the said Act for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 28th November 1951.

Any objection or suggestion which may be received from any person in respect of the said draft before the date specified will be considered by the Central Government.

*Draft Amendment*

In rule 8 of the said rules :—

(a) In clauses (a) and (c) the word "or" shall be added at the end,

(b) after clause (c) the following clause shall be added, namely :

"(d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the Committee."

[No. M. 41(24) 51.]

*New Delhi, the 23rd August 1951*

**S.R.O. 1329.**—In exercise of the powers conferred by section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946) read with sub-rule (2) of rule 3 of the Mica Mines Labour Welfare Fund (Bihar and Madras) Rules, 1948, the Central Government hereby appoints Shri P. S. Arumugam, Conciliation Officer, Madras, as a member of the Mica Mines Labour Welfare Fund Advisory Committee for Madras constituted by the Notification of the Government of India in the Ministry of Labour, No. LW-32(3)49 (S.R.O. 652), dated the 27th April 1951 *vice* Shri O. Venkatachalam.

[No. M 23 (4) 51.]

*New Delhi, the 28th August 1951*

**S.R.O. 1330.**—In exercise of the powers conferred by section 29 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby makes the following amendment in the Minimum Wages (Central Advisory Board) Rules, 1949, the same having been previously published as required by the said section.

*Amendment*

For rule 3 of the Minimum Wages (Central Advisory Board) Rules, 1949, the following rule shall be substituted, namely :—

“3. Constitution of the Central Advisory Board :—

The Board shall consist of the following members, to be nominated by the Central Government namely :—

- (i) a Chairman ;
- (ii) two officers of the Central Government, one of whom shall be the vice-Chairman ;
- (iii) one member each from the States of Bombay, West Bengal, Madras, Uttar Pradesh, Bihar, Madhya Pradesh, Hyderabad and Mysore ;
- (iv) two members by rotation from the States of Assam, Orissa, Punjab and Saurashtra ;
- (v) two members by rotation from the States of Patiala and East Punjab States Union, Travancore Cochin, Madhya Bharat and Rajasthan ;
- (vi) two members representing Part ‘C’ States ;
- (vii) seventeen members representing employers in the scheduled employments ;
- (viii) seventeen members representing employees in the scheduled employments.

[No. LWI. 24 (82)]

**S.R.O. 1331.**—At the end of the Schedule to the Ministry of Labour Notification No. LWI.24(33), dated the 7th March 1951—SRO-335, after the word ‘rate’ occurring in the . . . . . to the specification of the cost of living allowance, the following . . . . . namely :—

“adjusted at such intervals and in such manner as the Central Government may direct”.

[No. LWI. 24 (33)]

P. N. SHARMA, Under Secy.

*New Delhi, the 21st August 1951*

**S.R.O. 1332.**—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following further amendment shall be made in the Industrial Disputes (Central) Rules, 1947, the same having been previously published as required by sub-section (1) of the said section, namely :—

For sub-rule (2) of rule 1 of the said Rules the following sub-rule shall be substituted, namely :—

“(2) They extend to Part ‘C’ States in relation to all industrial disputes, and to Part ‘A’ and Part ‘B’ States in relation only to an industrial dispute concerning :—

- (a) any industry carried on by or under the authority of the Central Government or by a railway company ; or
- (b) a banking or an insurance company, a mine, an oilfield, or a major port.

[No. LR.1(134).]

*New Delhi, the 27th August 1951*

**S.R.O. 1333.**—In pursuance of clauses (a) and (c) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), and in supersession of the notifications of the Government of India in the Ministry of Labour No. LR. 11(92), dated the 31st August, 1949, and No. LR. 11(108), dated the 24th July, 1950, the Central Government hereby appoints the Chief Labour Commissioner (Central) to exercise the functions of an appellate authority under the said Act in all the territories to which the said Act extends in respect of industrial establishments under the control of the Central Government or a railway administration or in a major port, mine or oil-field and further, hereby, appoints each of the officers specified in column 1 of the Schedule hereto annexed to exercise the functions of a certifying officer under the said Act in respect of any of aforesaid industrial establishments situated within the territorial limits specified in the corresponding entry in column 2 of the said Schedule.

Provided that the Regional Labour Commissioner, Dhanbad, shall exercise the functions of a certifying officer in relation to Coal Mines in the State of West Bengal.

## SCHEDULE

<i>Designation of officer</i>	<i>Territorial limits</i>
1	2
1. Regional Labour Commissioner (Central), Kanpur.	The States of Uttar Pradesh and Delhi. <sup>¶</sup>
2. Regional Labour Commissioner (Central), Calcutta.	The States of West Bengal (except coal mines) Tripura, Manipur and Assam. <sup>¶</sup>
3. Regional Labour Commissioner (Central), Bombay.	The States of Bombay, Saurashtra and Kutch.
4. Regional Labour Commissioner (Central), Dhanbad. <sup>¶</sup>	The States of Bihar, Orissa and Vindhya Pradesh and in Coal Mines in the State of West Bengal.
5. Regional Labour Commissioner (Central), Madras.	The States of Madras, Mysore, Travancore-Cochin and Coorg.
6. Regional Labour Commissioner (Central), Nagpur.	The States of Madhya Pradesh and Hyderabad.
7. Regional Labour Commissioner (Central), Ajmer.	The States of Punjab, Patiala and East Punjab States Union, Ajmer-Merwara, Himachal Pradesh, Bilaspur, Rajasthan and Madhya Bharat.

*New Delhi, the 28th August 1951*

**S.R.O. 1334.**—In exercise of the powers conferred by section 6 of the Employment of Children Act, 1938 (XXVI of 1938), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 770, dated the 6th October 1950, namely :—

In the said notification for the entry "The Port Officer Cochin", the entry "The Labour Inspector (Central) Cochin" shall be substituted.

[No. Fac. 101 (10).]

*New Delhi, the 29th August 1951*

**S.R.O. 1335.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased to publish the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the management of the Dehri Rohtas Light Railway and the workmen:—

REFERENCE No. 13 OF 1950.

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

*In the matter of an Industrial dispute between the management of the Dehri Rohtas Light Railway and their workmen.*

#### PRESENT :

Sri S. P. Varma, Barrister-at-Law, *Chairman.*

#### AWARD

By Notification No. LR. 2 (297) dated 27th October 1950, the Ministry of Labour, Government of India, has referred this industrial dispute to this Tribunal in the following terms :—

"Whereas the matters specified in the schedule hereto annexed have so far as the Central Government is aware, been raised on behalf of the workmen ;

And whereas the Central Government considers it desirable to refer the dispute for adjudication ;

Now therefore, in exercise of the powers conferred by clause (C) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased to refer the said dispute for adjudication to the Industrial Tribunal at Dhanbad constituted under Section 7 of the said Act.



## SCHEDULE

1. Basic wages.
2. Dearness allowance
3. Bonus.
4. Regular Service Rules as in other Light Railways.
5. Welfare Fund.

The notification in this case was inadvertently sent to the Industrial Tribunal, Calcutta and subsequently it was received by this Tribunal on 19th March, 1951. After the dispute was referred for adjudication the parties came to an agreement on 29th October, 1950. Notices were sent to the parties to appear before this Tribunal on 16th August, 1951, to endorse the agreement by affixing their signatures upon it in my presence. But the parties jointly confirmed the agreement in their letter dated 6/8th August, 1951, and prayed to be excused from appearing in person (Appendix A).

In order to understand the case it is necessary to give a few facts. The employees in their general meeting held on 17th April, 1950, resolved and formulated as many as eighteen demands, which were forwarded to the management for consideration, in their letter No DRL/EU/3 dated 18th April, 1950 (Appendix B). Having received no response from the management a strike notice (Appendix C) was served on the management by the Vice-President on 17th October, 1950. As the Conciliation proceedings failed to bring about a settlement of the dispute it was referred to the Tribunal at Dhanbad for adjudication. After the reference was made the parties amicably resolved their dispute and entered into an agreement on the 29th October, 1950 (Appendix D).

I accordingly give my award in terms of the agreement.

*Dhanbad, dated the 16th August 1951.*

S. P. VARMA.

## APPENDIX A

(True copy)

THE DEHRI-ROHTAS LIGHT RAILWAY CO., LTD.

Ref. DRL 48/3424.

*Dated the 6th/8th August, 1951.*

The Chairman,  
Central Government's Industrial Tribunal,  
Dhanbad.

Dear Sir,

With reference to your No. ITR (30) I/442 dated the 4th August, 1951, we are sending herewith a true copy of the agreement which had been arrived at between the Management of this Railway and D. R. L. Rly. Employees Union on the 29th October, 1950 and we hope on the face of the same it will not be necessary for us or for the representatives of the Union to appear before you at Dhanbad on the 16th instant to formally admit the agreement by putting signatures upon.

Yours faithfully,  
for DEHRI ROHTAS LIGHT RLY. CO. LTD.,  
(Sd.) B. R. GULATI,  
Manager.

(Sd.) R. B. SINGH,  
General Secretary,  
D. R. L. Railway Employees Union,  
Dalmianagar.

## APPENDIX B

## DEHRI ROHTAS LIGHT RAILWAY EMPLOYEES UNION

P. O. Dalmianagar,  
Bihar.

Ref :—DRL/EU/3

*Dated the 18th April 1951.*

The Manager,  
D. R. L. Railway,  
Dalmianagar.

Dear Sir,

I am putting before you certain demands (attached herewith) of the D.R.Lt Rly. Employees as it has been decided by the Union on their meeting of 17th instant that in view of the abnormal rise in the prices of the commodities which has threatened the employees with starvation, I put before the Management our demands for immediate settlement. Hope the Management will consider it and settle it favourably to foster good and healthy relation between the Management and the Union and will not bitter good relations by showing cold attitude towards our legitimate demands.

An early settlement will very much oblige.

Yours faithfully,  
*for DEHRI ROHTAS LIGHT RLY. EMPLOYEES UNION,*  
(Sd.)

*General Secretary.*

## APPENDIX B

The following resolutions were passed in the General Meeting of the Dehri Rohtas Light Railway Employees Union held on 17th April, 1950 near the D. R. L. Rly. Workshop :—

1. The fixation of the Minimum wage is the most important and vital issue hence it is demanded by the Union that the minimum wage of Clerical and Traffic Staff should be raised to Rs. 55 from Rs. 45 in view of the present cost of living being so high.
2. Those who are getting Rs. 30 to Rs. 200 should be given a flat rate increase of Rs. 15 in their pay.
3. Overtime should be given to the Office, Stores, Traffic, Engineering and Loco Running Staff after eight hours duty on Gross Salary if the work is taken from them more than eight hours.
4. Officiating allowance should be given to all employees on the flat rate of Rs. 2 and Rs. 1 respectively to subordinate and inferior staff.
5. The relieving allowance should be given at Rs. 2 per day and rest day allowance should be given on gross salary of the employees.
6. Weekly rest must be given to the employees which is essential for every employee whether employed in Office, Stores, Engineering, Traffic, Loco Workshop, etc.

7. T. T. I. should be given daily allowance as per agreement and rules which they are not being paid as agreed upon.
8. Payment of gratuity should be enforced as per Agreement and those entitled to get the same should be given.
9. Some employees of Sasaram Section have been victimised and have not been paid their earned Bonus which the Union greatly resents. They should be paid and those who are working there for more than 6 months must be confirmed and those who have been discharged and not taken back should be taken in.
10. The grades of the employees are very poor in comparison with other railways hence it is demanded that the grades should be revised.
11. The employees are working hard and the Company's earning is nearly double this year i.e., 1949-50 hence it is demanded by the Union that the employees should be given at least 4 months' Bonus, to all the employees.
12. Working Bonus system should be introduced which would be helpful to the Employees and the Employer.
13. Employees are suffering badly for want of proper medicine which should be supplied and the condition of the hospital should be improved.
14. The system of daily rated staff should be abolished as the Company have made an agreement that every employee should be appointed on the minimum wage of Rs. 52 in all.
15. The post of Traffic Superintendent which has fallen vacant should be filled up amongst the staff as per Agreement. In cases of relieving and officiating preference should be given to the old hands.
16. House rent should be given to the Workers or they should be provided with suitable quarters.
17. Coal Khalasia and those who work in dirty places should be given soda, Gur and Mustard Oil.
18. In continuation with the above demand our demand for Dearness Allowance about which negotiations and conciliations are going on should be settled at the early date along with the above.

### APPENDIX C

#### DEHRI ROHTAS LIGHT RAILWAY EMPLOYEES UNION

(Registered Recognised and Affiliated with A.I.R.F.)

Ref:—DRL/EU/47

Dated 17-10-1950.

The Manager, D.R.L. Rly.,  
Dalmianagar.

Dear Sir,

The Executive Committee in its meeting held on 13-10-1950 considered with grave concern the whole situation about all the demands of the employees put by the Union *vide* letter No. DRL/EU/3 of 18-4-1950 and further amendments in it *vide* letter No. DRL/EU/39 dated the 29-9-1950. The committee lastly came to the conclusion that Union has given you sufficient margin of time to settle the demands but of no use. Now the Union finds no option but to serve you with Strike Notice for 15 days time from the date which we do hereby.

The demands of D. A. will take effect from 1st January, 1949 and other demands will come into effect from 1st April, 1950, and the company will have to pay the wages for strike periods for unlimited number of days

Thanking you,

Sincerely yours,  
(Sd.) KESHAVA SHASTRI,  
Vice-President

#### APPENDIX D

(True Copy)

THIS AGREEMENT made this 29th day of October, 1950 between the Management of Dehri Rohtas Light Railway Co. Limited, represented by Mr. B. R. Gulati, Manager, D. R. L. Railway Co., Ltd. hereinafter called the Management of the One part and Dehri Rohtas Light Railway Employees Union represented by Mr. R. B. Singh, General Secretary, of the other part hereinafter called the Union,

Whereas there was a dispute between the Management and the Union and the Union gave a demand *vide* their letter No. DRL/RU/3 dated the 18th April, 1950 and Strike Notice *vide* their No. DRL/EU/47 dated the 17-10-1950 and there was a mutual discussion between both the parties above mentioned and the following settlements have been arrived at on the 29th day of October, 1950 to the satisfaction of both the parties.

- (1) Demand No. 1 withdrawn.
- (2) Demand No. 2 withdrawn.
- (3) Demand No. 3 withdrawn.
- (4) Demand No. 4 to be followed as per Arrah Sasaram Light Railway.
- (5) Demand No. 5 to be followed as per Arrah Sasaram Light Railway.
- (6) Demand No. 6 to be followed as per Arrah Sasaram Light Railway.
- (7) Demand No. 7 to be followed as per Arrah Sasaram Light Railway.
- (8) Demand No. 8—Agreement already arrived at is to be followed
- (9) Demand No. 9 withdrawn.
- (10) Demand No. 10 withdrawn.
- (11) Demand No. 11—it has been agreed that all the employees of this Railway will be given Bonus who are still working as under :—
  - (a) To those who are on roll from 1st April, 1949 to 31st March, 1950 . . . . . 2½ months basic pay.
  - (b) To those who are on roll from 1st July, 1949 to 31st March, 1950 . . . . . 50 days' basic pay.
  - (c) To those who are on roll from 1st October, 1949 to 31st March, 1950 . . . . . 25 days' basic pay.
  - (d) To those who are on roll from 1st January, 1950 to 31st March, 1950 . . . . . 12½ days' basic pay.
- (12) Demand No. 12 withdrawn.
- (13) Demand No. 13 withdrawn.
- (14) Demand No. 14 withdrawn.
- (15) Demand No. 15 withdrawn.
- (16) Demand No. 16 withdrawn.
- (17) The Management agrees to give soda to the coal Khalaris and others who work in dirty places.

- (18) The demand of the minimum wage is withdrawn but it has been agreed upon that a flat rate increase in the D. A. will be given to the employees who are drawing a basic salary below Rs. 45, Rs. 3 and a flat rate increase of Rs. 5 (in the D. A. p. m.)

(Sd.) R. B. SINGH. (Sd.) B. R. GULATI.

All these are to come into effect from 1st October, 1950 and this Agreement will be binding on both the parties till the 30th November, 1951.

(Sd.) R. B. SINGH.

(Sd.) B. R. GULATI,  
29-10-50

The General Secretary,  
D.R.L. Railway Employees Union.

Manager, D.R.L. Rly.

[N. L. R. 2 (297).]

**S.R.O. 1333**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased to publish the following award of the Industrial Tribunal, Dhanbad, in the dispute between the management of the East Ena and East Bhuggatdih Collieries and their workmen:—

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

*Reference No. 8 of 1951*

#### PRESENT :

Shri S. P. Varna, Barrister-at-Law, *Chairman*.

#### PARTIES :

The Management of the East Ena and East Bhuggatdih Collieries

AND

The Workmen.

#### APPEARANCES :

- |                              |  |
|------------------------------|--|
| For the Management . . . . . | Shri L. Pathak and Mr. Ahuja, Manager.   |
| For the Workmen . . . . .    | 1. Shri Ram Narain Sharma, President,<br>Congress Khan Mazdoor Sangh.                |
|                              | 2. Shri Ram Shankar Sharma, Acting President,<br>Congress Khan Mazdoor Sangh.        |
|                              | 3. Shri Sidheshwari Prasad Singh, General<br>Secretary, Congress Khan Mazdoor Sangh. |

#### AWARD

By a notification No. LR. 2 (295), dated 8th February 1951 the Government of India in the Ministry of Labour, has referred this dispute to this Tribunal in the following terms :

“Whereas an industrial dispute has arisen between the management of the East Ena and East Bhuggatdih Collieries and their workmen in respect of the matters specified in the Schedule hereto annexed ;

And whereas the Central Government considers it desirable to refer the dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to refer the dispute for adjudication to the Central Government Industrial Tribunal at Dhanbad, constituted under Section 7 of the said Act.

#### SCHEDULE

1. Refund to the workers of the excess of 2 annas charged for supply of rice.
2. Payment of Sunday overtime and extra overtime.
3. Payment of wages to all workers for the Independence Day holidays on January 26 and 27, 1950.
4. Chaprasis and W. E. Khalasis who are now weekly paid to be treated as monthly paid employees.
5. Payment of compensation to trammers of the new incline who are earning less than the prescribed minimum according to the Conciliation Board's recommendations.
6. Grant of increment to workers.
7. Payment of family bonus.
8. Budhan Mistry now working as line Mistry be paid wages of line Mistry.
9. Return of the radio set to the workers.
10. Compensation for stone-cutters of the quarry for loss of earnings.
11. Shri Krishan, moter driver, to be paid the wages of a driver instead of the wages of cleaner.
12. Reduction in the rates of main driver.
13. Withdrawal of notice of lockout regarding East Ena Hard Coke.
14. Payment of railway fare for return journey.
15. Fixation of tub rates of quarry miners at annas 12 basis.
16. Leave with pay for monthly paid staff.
17. Payment of bonus for wagon-loaders.
18. Victimisation of certain workers (cases to be specified).
19. Wages for bailing coolies."

2. The Union that has appeared before me was formed on 15th August 1947. This Union was later on recognised by the management. There was a rival Union and it is said that when they put up their demands before the Conciliation Officer some criminal case was instituted against that Union. That rival Union has now merged with the present Union. It would be noticed that there are 19 issues in this case but one of them Issue No. 7 has not been pressed.

3. I will now take up issues one after another.

#### ISSUE No. 1

*Refund to the workers of the excess of 2 annas charged for supply of rice*

4. The Union refers to a letter No. NP/1011/13. dated 4th March 1946 where a plan was introduced in the coalfields of Bihar and Bengal. They say that the usual rate was As. 5 per seer but the workers in this colliery used to get their rice at the rate of As. 7 per seer, and claim refund of As. 2 per seer from 4th March 1946 to 4th October 1947 nearly on a year and seven months when the rate of As. 5 a seer

was introduced. They refer to Ex. 1 (1), 1 (2), and 1 (3) which happened to be agreements and they say that the sale of rice was to be at the rate of As. 5 a seer regardless of quality. The management on the other hand point out that while in para. 1 of the Government Notification the amount of rice is mentioned the payment is to be at the controlled rate. They also refer to a letter, dated 9th October 1947 where demand for extra As. 2 is made but that demand has not been mentioned in Ex. 1 (1) which was an agreement, dated 14th November 1947 between the Congress Khan Mazdoor Sangh and the management of East Ena and East Bhuggatdin collieries. Para. 3 of the agreement is as follows :

“ 3. Rice will be sold at As. 5 per seer regardless of its quality and cost to the management.”

and it will be interesting to note that in this agreement no reference is made to demand of refund of As. 2 extra that has been paid by the workers. Moreover, the management refers to the fact that they charged As. 5 per seer for medium and coarse rice and As. 7 for fine and superfine rice supplied to the workers. They say that the demand now made is a belated one and against the spirit of the three agreements Ex. 1 (1), 1 (2), 1 (3). I am of opinion that if the claim of the Union was for the refund of extra amount of As. 2 from 4th March 1946 to 4th October 1947 it is inexplicable as to why this demand did not form part of the agreement Ex. 1 (1) as clarified by the subsequent agreements arrived at by the parties. I add that the Union has not made out a case for the refund of Extra As. 2 paid by the workmen as claimed by the Union.

#### Issue No. 2

##### *Payment of Sunday overtime and extra overtime*

5. The case for the Union is that the workers mentioned in Appendix 'A' of the Union's written statement have not been allowed Sunday rest day and other overtime which the workers are entitled to get at the rate of  $1\frac{1}{2}$  times the usual rates in accordance with the Conciliation Board's Award. This may be awarded with retrospective effect. They supplemented their statement by examining on oath Kaisava Bhuian, Sirdar, and Rabindra Nath Pandey, Attendance Clerk. Their claim is that when the shift was changed from two shifts—9 P.M. to 5 A.M. and 9 A.M. to 5 P.M.—to three shifts they should have been paid for the extra work they did before. The Union admits that at present admittedly the management are paying for Sundays and overtime as mentioned in the Conciliation Board's Award except in the case of trammers in No. 3 pit. The management on the other hand repues that they have been paying Sunday overtime and extra overtime to the workers who are legally entitled to the same. They further add that the Union did not make this demand before the management. Referring to Appendix 'A' of the written statement of the Union and para. 2 of that statement, the management submits that the statements therein are not correct. The different categories of workmen attended duties according to their terms of employment and none was allowed to work more than 6 days a week without the payment of overtime. They also submit that Amrit Lal, Compounder does not come within the category of workman. During the hearing the management pointed out that various names mentioned by the Union were not there as no such work was carried on in that section. The attendance register was shown by Rabindra Nath Pandey where he himself has noted that there was no work on Sundays. The register is marked Ex. D (2) (4). I have gone through various pages and I find a number of entries stating that there was no work on Sundays. This attendance register refers to No. 3 pit. There was an agreement between the labour Union and the management before the then Regional Labour Commissioner where  $1\frac{1}{2}$  times wages was said to have been paid by employers to employees working 8 hours on Sundays and holidays and the management promised to make good the omission if any later on. This agreement is dated 28th October 1948.

Reference has also been made to a letter Ex. 3 (2) (3) wherein one Shri R. S. Singh claims to have worked for 24 hours a day. It is very difficult to accept a statement like that. The management further contend that those persons mentioned in Appendix 'A' of the Union are either working in the manufacture of hard coke or their names do not appear in the books of the management. As a matter of fact, no hard coke is prepared on Sundays. The question of overtime therefore does not arise at all. The management has specifically mentioned 41 persons who had been paid extra for overtime during the period 1st April 1948 to 12th February 1949, whenever they have worked overtime. Then the management made reference to the case of Shri R. S. Singh mentioned by the Union in Appendix 'A'. As I have already mentioned it is astonishing that he was working for 24 hours a day. Moreover he was paid by a voucher dated 7th November 1949 by which Shri R. S. Singh has given a receipt for full payment for the period he has done work. With regard to Bishnu Pada Ghosh and B. N. Prasad the management say that they never worked overtime as mentioned by the Union. Their claim for overtime for working in the day shift both for the incline and the quarry in a shift was under misapprehension. It is further said that attendance is taken both for persons going to work in the incline and those persons going to the quarry in the common attendance room. In the case of trammers the management say that the Union's statement that they are working overtime even today cannot be accepted because in their written statement the Union talked only of the past. The Union also wants to make out that trammers worked extra 4 hours a day but it is not easy to believe. The evidence of Kaisava Bhuiya cannot be relied upon because he is an interested person in this issue. The evidence of Shri R. N. Pandey to a certain extent supports the case of the management. The case of Amritlal, compounder may be disposed of summarily because it is doubtful whether he comes within the category of workman. Moreover he has not been examined nor has the Doctor who gave him the certificate been produced before the Tribunal to support him. It is very difficult in this state of the records to hold definitely that such and such a person worked overtime and that he has not been paid his proper wages. All that this Tribunal can do in the present state of the circumstances of the case is to hold that the management should pay for working on Sundays and for extra overtime at the rate of wages recommended by the Conciliation Board's award.

#### ISSUE No. 3

*Payment of wages to all workers for the Independence Day holidays on January 26 and 27, 1950*

6. This Reference was taken up on 25th June 1951 and all issues except the present issue were finished on 29th June 1951. The hearing on this issue was postponed because another Reference No. 10 of 1951 seemed to be of a similar nature. But after dealing with that Reference the award of which has been despatched on 4th August 1951 I found that this issue is different from that of the issue regarding this matter in Reference No. 10 of 1951. After giving due notice to the parties I heard this issue on 3rd August 1951. From the statement of the Union it appears that their demand is for wages of the persons mentioned in Appendix 'B' of their written statement for 26/27 January 1950. They say that the seven workers (Sukur Mistry, Parmeswar Mistry, Hira Lal Mistry, Sita Ram Mistry, Ram Chander Mistry, Kalu Ram Mistry, Bijan Ram Mistry) should have got their wages for 26th and 27th January 1950. They also claim in Appendix 'B' that the workers of Hayat Ali, Contractor, working at that time should also be paid. The management on the other hand relies upon a circular issued by the Secretary, Joint Working Committee of coal industry, Ex. M (3) (1) which is dated 25th January 1950 and the important paragraph upon which the management relies is as follows :

"They also recommend that pay should be given for both these days only to those who worked on all the other working days of the week namely the 23rd, 24th, 25th and 28th January."



The management does not tell us what are the dates on which these seven workers worked. Moreover, I am not very much impressed by the conditions laid down in the Circular mentioned above that only those who are on duty on 24th, 25th and 28th January will be paid. Supposing a man were on leave and he joined only on 25th, in that case although he has come back to join his duty on 25th and also worked on 28th, he should not be deprived of his wages. In the absence of anything definite from the management that there was anything against these persons named in Appendix 'B' of the Union's written statement, I think they should be allowed wages for the two dates mentioned in the issue.

So far as the contractors' labour is concerned I am afraid the Union's demand is not on good grounds. In Appendix 'B' only workers working under Hayat Ali have been mentioned. But the position of a contractor is different from that of an employee directly under the management. Moreover, from the Ex. M. 3 (1) (2) (3) which are vouchers produced by the management it appears that Hayat Ali was chiefly in charge of brick making and buildings and this fact is hit at once by clause (6) of the Joshi Agreement which runs as follows :

" 6. The employees of the following categories of contractors shall not be included in the categories of contractors' labour entitled to all amenities as specified in Para. 23 of the Board's report.

*Surface.*—(i) Building contractors (ii) Brick-making and tile making contractors."

This being the position no order can be passed in favour of the workers working under Hayat Ali, Contractor.

This issue is answered accordingly.

Before leaving this issue I may mention that 26th and 27th January have been referred to as Independence Day. We know that now-a-days 26th January is mentioned as Republic Day. Perhaps the difference in the name is due to a slip.

#### ISSUE No. 4

*Chaprasis and W. E. Khalasis who are now weekly paid to be treated as monthly paid employees*

7. The Union submits that out of 15 chaprasis two or three are weekly paid while all others are on the monthly paid basis. Those chaprasis who are on the weekly paid basis the Union wants them to be brought on the monthly paid basis. The management on the other hand submits with regard to chaprasis that all the chaprasis are monthly paid. But in the course of the argument it transpired that two persons Anurup Singh, Office Boy, and Madan Pandey, Chowkidar, are on the weekly paid scale, and they should be treated as chaprasis and they should be put on the monthly paid basis. The request of the Union seems to be a reasonable one. The work of a chaprasi is not much different from that of an Office Boy and I would therefore allow the Union's demand that M. M. Pandey and Anurup Singh should be brought on the monthly roll. I am not, however, prepared to change the rate of pay that they are getting at present. But they will be entitled to other benefits which the monthly paid employees get under the management.

So far as Winding Engine Khalasis are concerned it appears that the practice is not very uniform in the neighbouring collieries. In some collieries they are monthly paid and in some others they are on weekly paid basis. I think that in consideration of the nature of their work they should be put on monthly paid basis but that does not mean that I would interfere with the rate of payment being made to them because that is not the reference before me.

## ISSUE No. 5

*Payment of compensation to trammers of the new incline who are earning less than the prescribed minimum according to the Conciliation Board's recommendations*

8. The Union in its statement says that the Conciliation Board's Award mentions Rs. 1-14-0 per day as the minimum for trammers but the present trammers of the new incline are getting less than the prescribed amount. So the difference should be made good by an award by the Tribunal. The names of the people who have not earned the minimum prescribed by the Conciliation Board's Award are found in Appendix 'C' of the written statement of the Union. The management on the other hand alleges that it has paid and is paying the rates of wages to the trammers to which they are legally entitled. They do not accept the statement of the Union that they are getting less than the prescribed minimum. They further state that the trammers are piece rated workers, and the wages earned by them collectively have been paid through their respective Sirdars. The management submits that the earnings of trammers depend on raisings and the management has no direct or indirect control of the raisings. In the course of the argument a reference was made to Ex. L. 5 (1). It has been said that they are getting Rs. 3 and pice nine including Dearness Allowance for pushing one tub of 36 c. ft. This figure has not been challenged. Ex. L. 5 (1) gives us the various amounts that are paid to the male and female workers from 7th April 1950 to 30th March 1951 and from this taking a week to be 6 working days, a male worker gets at the rate of Rs. 1-14-0 per day and a female worker gets Rs. 1-2-9. The management seems to be paying the proper minimum. This list has not been seriously questioned by the Union and they should have done so if they wanted to. I am afraid no case for payment of compensation has been made out.

## ISSUE No. 6

*Grant of increment to workers*

9. The case of the Union is that the semi-skilled, highly skilled and clerical staff in the collieries of this management are getting less than the wages of some categories of a standard colliery in the field. The workers are entitled to wages in accordance with the other standard collieries in the field. They further said that differentiation is made on account of the province from which they come. People coming from Gujrat are treated better than the people coming from other provinces. The payment of these local workers should be raised to the same footing as that of the Gujaratis. In the list which Shri S. P. Singh submitted on 29th June 1951 he gave a list of ten type of workers whose rate of basic wages should be revised. They were Shot-firer, Prop-mistry, Prop-cooly, Line Mistry, Winding Engine Khalasi, Pump Khalasi, Firemen, Tindol, Tindol Cooly, Banksmen and On-setters. But at the time of argument he withdrew his case with regard to the first 7 items of the said list. We are now concerned with the case of Tindol, Tindol cooly, Banksmen and On-setters. He has compared the wages received in the collieries close to the colliery of the present management. For example in the case of Tindol he gets Rs. 4 in Lodna colliery and the Standard colliery which does not work now was paying Rs. 3-12-0 per day. In the East Ena and East Bhuggatdih collieries the rate is Rs. 2-3-0 per day. The Union wants that Rs. 3-12-0 should be the minimum paid to the Tindol in this colliery. It may be noted that there is only one Tindol in this colliery. A Tindol cooly gets Rs. 2 in the Lodna Colliery and Rs. 1-8-9 or Rs. 1-5-0 is being paid in the colliery of the present management. They want that the rates should be raised to Rs. 2 per day. There are 10 such coolies in the colliery. Before I pass on to the other two categories it may be mentioned that the payments made by the management in their collieries should not be compared with the payments made in the Lodna Colliery for the simple reason that Lodna raises 30,000

tons of coal per month, Jamadoba and Digwadih raise 25,000 to 30,000 tons of coal per month, whereas East Ena and East Bhuggatdih collieries raise only 7,000 tons of coal per month. Another colliery has been mentioned by the management that pays less to these people than what is paid by the present management. No case for the increase in the basic wage of the Tindol and Tindol Coolies has been made out.

In the case of Bankamen and On-setters it is pointed out that they are being paid As. 13/6 in Jamadoba. Considering the nature of the work they have to carry on I feel that As. 9/6 is too small an amount. The claim is for 12 such people in the colliery. The demand is that they should be paid at the rate of As. 12 basic. Considering the size of the Colliery I think the ends of justice will be met if I raise the wages from As. 9/6 to As. 10 basic. The argument about the provincial treatment to Gujarat's is not of much importance inasmuch as in Lodna also the Punjabi workers are getting a higher rate of wages than the workers of the present management. I wish this point based on provincialism had not been raised in this case.

#### ISSUE No. 7

##### *Payment of family bonus*

10. This issue has not been pressed by the Union.

#### ISSUE No. 8

##### *Budhan Mistry now working as line Mistry be paid wages of line Mistry.*

11. It appears from Ex. E (8) (2) that Budhan Bauri was appointed on 12th January 1949 as extra temporary Line Mistry. At the time of this Reference evidently he was acting as Line Mistry and was being paid the rate to which he was entitled. I do not know what grievance there is with regard to his payment. If he is reverted to his original post he will get the pay of the post to which he was appointed. Just now he is getting some allowance for the work that he is carrying on as Line Mistry. No interference by the Tribunal is called for.

#### ISSUE No. 9

##### *Return of the radio set to the workers*

12. The case of the Union is that a radio set with the loud speaker was taken away by the management. It was taken away about a year and half ago. It ought to have been repaired and returned to the workers but this has not been done. The management should be ordered to return the radio to the workers and instal it where it was originally kept. The management on the other hand point out that an adult education hall is there where the adult members are allowed to go and they are prepared to put it there. Shri Sharma appearing for the Union said that the workers have no objection if the same is put in its original place but it should be done as soon as possible. The management says that they have applied for electricity and as soon as electricity is obtained it will be put in there. Let the radio set be put in the adult education hall as soon as electricity is available. The sooner it is done the better. I give my award accordingly on this issue.

#### ISSUE No. 10

##### *Compensation for stone-cutters of the quarry for loss of earnings*

13. The Union says that the rate of stone-cutting in these collieries is lower than the other standard collieries. Moreover, labour is not getting any lead and lift which is about 300 to 400 feet and 35 to 40 feet respectively and the Union demand

that lead and lift be allowed at a revised rate as mentioned in the C. B. Award with retrospective effect. The management on the other hand have produced the rates prevailing in the other adjoining collieries. They also point out that the rates for removal of the overburden in the collieries of the management is higher than other collieries in the vicinity. There is a letter from the Pure Jhar'a colliery dated 7th April 1951 in a reply to a letter sent by the management of the East Bhuggatdih colliery on 4th April 1951 which is Ex. F. 10 (1). In that letter from the Pure Jhar'a colliery the payment for 1000 c. ft. is Rs. 40 through rate including lead and lift but excluding explosives and Sardar's commission. The Selected Khas Jhar'a pays Rs. 15 for earth, Rs. 25 for soft stone, Rs. 35 for Shale, including lead and lift. South Jhar'a colliery pays for Earth Rs. 15, for soft stone Rs. 22-8-0, for Shale Rs. 29-12 0 plus lead and lift (which does not exceed Rs. 5). The colliery of the management is paying through rate of Rs. 45 per 1000 c. ft. plus Rs. 1 extra plus free explosives plus Sardar's commission of Rs. 1-4-0 per 1000 c. ft.

Comparing the rates given above I do not see how it can be said that the present management is paying less than the neighbouring collieries. It is true that stone-cutting is a little more difficult than the cutting of coal but really in this quarry it was a case of removal of overburden which includes earth, medium and hard stone. For this kind of work payment that is being made seems to be adequate as compared with the other neighbouring collieries. So far as the lead and lift statement is concerned I visited the colliery and found that the lead was not more than 100 feet and the maximum lift was not more than 5 to 10 feet. Considering the smallness of these figures I do not think any special rate is called for. Joshi Agreement para. 8 may be referred to. Reference has also been made to a letter, dated 4th November 1950, Ex. 4 (10) (1) by Shri S. P. Singh appearing on behalf of the Union which contains a series of allegations and I doubt very much if they can all be taken as correct. I am of opinion that this issue cannot be decided in favour of the Union.

#### ISSUE No. 11

#### *Shri Krishan, motor driver, to be paid the wages of a driver instead of the wages of cleaner*

14. The Union in their written statement say that Shri Krishan Singh has been working as a motor cleaner for about two years and he later became driver and worked both as cleaner and driver but he had not been paid the wages of a driver. The usual pay of a driver under the management is Rs. 125 per month but he is being paid Rs. 75 per month. The claim of the Union is that he should be paid at the rate of Rs. 125 per month with retrospective effect. The management submits that when Shri Krishan Singh was appointed he entered into a contract with the management and he is paid according to that contract. His case cannot be compared with other drivers who are governed by their own conditions of service. In the course of the argument however Shri S. P. Singh corrected himself by saying that Shri Krishan Singh does not get Rs. 75 as mentioned in the written statement but he is getting only Rs. 70 per month. Reference was made to Ex. 5 (11) (1) which is a letter addressed to the General Secretary of the Congress Khan Mazdoor Sangh by Shri Krishan Singh, Driver, praying that something should be done with regard to his payment. On the other hand the management have produced a letter dated 18th January, 1951 which is the letter of appointment giving the conditions under which Shri Krishan Singh was being appointed. He accepted the terms as is evidenced by his signature. Ex. G (11) (3) also shows that he has received Rs. 644-0-6 in full payment of his dues on 3-1-1951. No case for the increase of his pay has been made out but it appears he has been on the weekly paid list. This is a case which should be more appropriately put on the monthly paid list. Shri Krishan Singh should be put on the monthly paid category. I give my award accordingly.

## ISSUE No. 12

*Reduction in the rates of main driver*

15. The Union in its written statement has come forward with a very short statement that the rate of main drivers was reduced from Rs. 2-12-0 to Rs. 2 and he same should be restored with retrospective effect. In the course of the argument they have pointed out that before 16-8-1950 there was a flat rate in Pit No. 2. They say that from 16-8-1950 a telescopic rate was introduced in the following way :—

1 to 15 feet	. . . . .	Rs. 2 per foot.
15 to 19 feet	. . . . .	Rs. 2-4-0 „
20 to 25 feet	. . . . .	Rs. 2-6-0 „
25 onwards	. . . . .	Rs. 2-8-0 „

The Union says that they should get as follows :

1 to 15 feet	. . . . .	Rs. 2-6-0 per foot
15 to 19 „	. . . . .	Rs. 2-10-0 „
19 to 25 „	. . . . .	Rs. 2-12-0 „
26 onwards	. . . . .	Rs. 2-14-0 „

That is to say that if this telescopic rate has to be maintained an increment of Rs. 6 throughout should be introduced. They have given us figures as to how formerly they were getting more and how the workers now are getting less. The management on the other hand shows that it was never a flat rate as mentioned by the Union but the rates varied between Rs. 1-12-0 to Rs. 2-12-0 according to the size, amount and type of the main. They have produced a chart showing the main drivers' rates during 1948-49. The management says that they have introduced the new rates for the purpose of good management and incentive to the workers and this is a matter to be left to the management to decide. The fact is that after all the main drivers are primarily miners who take to main driving for getting extra payment. The management has introduced a change in the rate of payment. If the miners are not prepared to work on main driving they will continue as miners. Now the management has also shown us Ex. H (12)(1) from which it appears that their wages differ in different places in different years. From the foregoing I think that the Union has not made out a case for the revision in the rates of the main drivers as it stands at present. The issue is answered accordingly.

## ISSUE No. 13

*Withdrawal of notice of lock-out regarding East Ena Hard Coke.*

16. The case of the employees is that the lock-out by the employers at the hard coke plant is illegal in as much as the same was closed during the pendency of the conciliation proceedings. The employers should pay the full wages as they promised to do so. All the workers are entitled to wages from the date of the closing down upto the present date. The workmen also pray that the management be ordered to resume work of the plant. The management on the other hand deny that the closing of the Hard Coke Plant was an illegal lock-out. They also deny that they stand committed to full wages or the workers entitled to wages from the date of the closing down up till now.

It appears that by a notice dated 27th June 1950 issued by the management was to suspend the work of Boo-Hive Hard Coke Bhattas at East Ena Colliery with effect from 14-7-1950 on economic grounds. The Union on the other hand served a strike notice on 3rd July 1950 proposing to have the strike on 24th July

1950. That both matters were taken up on 7th July 1950 by the Conciliation Officer. The discussion was however postponed till 17th July 1950 at the request of the Union. By another notice the management notified that they would stop manufacturing hard coke from 17th July 1950. But as a piece of good gesture the management said that they may make payments to those workers who were affected by this closure for sometime. That in view of the attitude of the Union, the management on 17th July informed the Conciliation Officer that the conciliation with regard to East Bhuggatdih may be regarded as having failed. An enquiry was made on the spot and the Conciliation Officer agreed to send the report by 22/23 July 1950. The management let off the workers and paid them upto and including 5th August 1950. The management also informed the workers that those workmen who were affected will be taken in when the hard coke manufacture is restarted and also offered them work in the sister collieries of the management which the workmen refused. According to the management the East Ena and East Bhuggatdih suspended work long after the conciliation proceedings is said to have terminated and therefore Hard Coke Bhattas were not closed during the pendency of the conciliation proceedings. When the management refused to continue to employ workmen when there was no work for them it could not be said to be a condition of service.

The Union in the course of the argument urges that the lock-out was illegal because it was during the pendency of the conciliation proceedings and says that Section 22 (2) (a) and (b) were contravened. They also referred to Ex. J (13) (5) which is the notice dated 7th August 1950 where the management pointed out that there will be no payment after 5th August 1950. They also say that the conditions mentioned in the document dated 11th July 1950 which is marked Ex. J (13) (2) do not exist and therefore the workers should be paid for the period they were idle. The reasons mentioned in this letter were that there was no place for stocking hard coke at East Ena Bhattas and the quantities which were lying at the platform were getting washed away and corroded by rains and other natural forces and the crushing of coal would be stopped from Monday the 17th July though the discharging of Bhattas will continue till Wednesday the 19th July. In that letter about 55 names were mentioned and those workers who were affected by this stoppage were to be paid according to the rules until further orders.

The management in reply say that the question of illegality of the action of the management was not the point in reference. The reference is only with regard to the withdrawal of notice of lock-out regarding East Ena Hard Coke plant. They further urge that firstly there was no illegality, secondly that the management offered alternative employment in other collieries of the management but none of the workers came forward to accept the offer. The management also submits that eight workmen of Basarat Sardar were still in service and they agreed to work as loading mazdoor. They further say that the stoppage of work in the East Ena coke plant was on account of economic reasons and as the management is always anxious to go on with the manufacture of hard coke in which it is interested it was not to spite the Union that they stopped work. It is further submitted that as the manufacture of hard coke in East Ena Bhattas was stopped after 40 days of the first notice it cannot be said that it was closed during the pendency of the conciliation proceeding. It is further argued on the basis of Section 12 (6) of the Industrial Disputes Act 1947 that the report should have been sent within 14 days from 27th June and as it was not sent therefore it cannot be said that the conciliation proceeding continued, after the 14 days from the beginning of the conciliation. They also urged that the conciliation officer became 'functus officio' after that period. They laid stress upon the word 'shall be' which occurs in Section 12 (6) of the Act and tried to get out of the provision under Section 20(2)(b) of the Act which says that the conciliation proceedings shall be deemed to have commenced on the date on which a notice of strike or lock-out under Section 22 is received by the Conciliation Officer and the same shall be deemed to have concluded when the report of the Conciliation Officer

is received by the appropriate Government and seven days after. The management further point out that the claim of the workmen for forced idleness from the date of the closing of the hard coke plant till now cannot be sustained because alternative employment was offered by the management but it was not accepted.

I have given the arguments advanced by either side in detail just for the satisfaction of the parties. But the question that I have to decide is whether the closing of the East Ena coke plant on account of financial reasons of the company can amount to a lock-out especially when they offered to pay the displaced workmen upto 5th August and offered employment to them in other sister concerns of the management. I do not agree with the argument of the management that the Conciliation Officer became 'functus officio' after fourteen days from the date of the beginning of the conciliation proceedings and therefore a lock-out even before the date when the report was received by the appropriate Government was not illegal. I will refer to the case of *Smith Vs. Jones* mentioned in *Maxwell's Interpretation of Statutes* at pages 380 and 381, 9th edition. I think that this word 'shall' occurring in Section 12(6) of the Act is directory and not imperative as I have held in Appeal No. 1 of 1949 of this Tribunal. But the main question still remains whether the action of the management amounts to a lock-out especially when an alternative job was offered to the workers which they refused. From the date of the lock-out notice it will appear that it was about a week before the strike notice, and the reason given by the management was that it was on account of financial difficulties that they could not carry on the work. Under similar circumstances I find that it was held in the dispute between *Maxwell Engineering Works* and their workers published at page 227, L L J. Vol. II, 1950, that when the lock-out was not in a spirit to cow down the workers but due to reasons beyond the control of the management the closure was bona fide and could not be held to be illegal. Since it was not illegal no compensation was ordered to be paid especially when the management offered alternative employment to the workers. Agreeing with these observations and on the facts of this case I see no reason to order a withdrawal of notice of lock-out.

The question before me is with regard to the withdrawal of lock-out notice by the management but not with regard to the legality or otherwise of the lock-out. I am therefore not going into the matter of legality or otherwise.

#### ISSUE No. 14

##### *Payment of railway fare for return journey*

17. The Union says in its written statement that the award in Reference No. 4 of 1948 of this Tribunal which was a dispute between the workmen and the employers of North Damuda, Albion, Bokaro-Jharia, Kessurgarh and Aggarwala Godhur Collieries published in the *Gazette of India*, Part I-Section I, at page 1126, dated 11th September 1948, under the Ministry of Labour Order No. LR. 3(39) of 7th September 1948 should be followed in this case. In that case the Tribunal awarded railway fares both ways and the same be made applicable to these workers with retrospective effect. The management on the other hand point out that there was no previous demand for this return railway fare. Though the strike notice contains 21 demands it does not contain a demand for return railway fares. The Union however showed a paper which contained 27 items and the 22nd item in their list contained demand for railway fare for workers. The management on the other hand have produced the strike notice served upon them which is an exact copy as that of the copy in the Regional Labour Commissioner's file. This demand is not to be found in the copy of the letter sent to the Regional Labour Commissioner. Apart from that my attention has been drawn to Ex. B (15)(3) in which in elucidation of the C. B. Award the Government of India issued a circular to the various associations connected with ICOA and other members in which they advised as follows :

"(i) Every worker working underground or on surface should be granted a single journey third class fare plus bus charges wherever journey by

bus is involved from the colliery to his home once in any calendar year provided he has put in the minimum attendance, namely, 190 days in the year if working underground or 265 days in the year if working on the surface at that colliery during the 12 months preceding the date on which the concession is availed of.

- (ii) The concession will be admissible only to the worker and not his family
- (iii) As far as possible the worker should be provided with railway tickets, cash being given only where arrangements for tickets cannot be made.

The management say that they have been following the Government of India instructions contained in the letter No. LR. 2(W2) of 6th November 1947 mentioned above and the management has been paying single journey third class tickets plus bus charges. Reference No. 4 of 1948 referred to by the Union was quite relevant, but the trouble is that this particular letter has not been mentioned in that Reference No. 4 of 1948. As to what the result would have been if this letter had been before the Tribunal I do not know. But personally in view of this letter I think that if the management is paying according to this circular Ex. B (14)(3) they are perfectly within their rights and no further modification of this rule need be made. This issue is disposed of accordingly.

#### ISSUE No. 15

##### *Fixation of tub rates of quarry miners at annas 12 basic*

18. The Union refers to the C. B. Award and points out that the Conciliation Board awarded a basic increase of 50 per cent, and brought the minimum rate of the tub to As. 8 and the present basic rate is therefore As. 12. They emphasise the fact that quarry miners should not be differentiated from the underground workers or the pit miners. They also point out that although the quarry miners have not to work underground they have to work in the scorching rays of the sun, rains and in chilly winter. Therefore the Union prays that the quarry miners should be awarded As. 12 basic for a tub of 36 c. ft. In the course of their argument they modified their demand to a certain extent and said that they should be paid at least As. 10/6 for a tub of 36 c. ft. At present the quarry miners are getting As. 7/6 basic and pit miners are getting As. 12 basic. That is to say the quarry miners are getting Rs. 1-2-6 whereas the pit miners are getting Rs. 1-14-0 and the difference is very great. I visited East Bhuggatdih colliery on the afternoon of 25th June 1951 and I have no hesitation in saying that the conditions under which the quarry miners are to work are not so strenuous as the conditions prevailing in the case of pit miners.

The management on the other hand point out that there is a good deal of difference between the work of the quarry miners and that of the pit miners. They also say that one thing is very significant that whereas women are not allowed to work inside a gallery they are allowed to work in the quarries. They further point out that this demand was never made before this Reference came before the Tribunal. They also rely on the circular issued by the I. M. F. and I. C. O. A. which was the result of discussions between the committees of the two bodies and the labour leaders in respect of Unions affiliated with Bihar Khan Mazdoor Federation under the auspices of the Bihar Socialist Party. In item No. 5 they have fixed the minimum wages as is being paid by the present colliery proprietors. The circular is Ex. C (15)(1), dated 17th July 1947. In this view of the matter I am afraid the demand made by the Union cannot be granted. The present rate that is being paid by the proprietors is the prevailing rate in the neighbouring collieries and no interference is called for on the materials before me. I give my award accordingly on this issue.



## ISSUE No. 16

*Leave with pay for monthly paid staff*

19. The Union in the course of the argument referred to para. 10 of the Joshi Agreement which runs as follows :

"10. All old employees who had been in receipt of privileges and benefits better than those given in the Board's report should not be adversely affected."

In order to take advantage of this para. of the Joshi Agreement the Union ought to have pointed out before the Tribunal could interfere as to how far they were adversely affected. The management on the other hand point out that there was no hard and fast rule before the C. B. Award but now-a-days they are following the C. B. Award. If the management is following the C. B. Award there is nothing more to be said. The Union has not pointed out that the management is not following the C. B. Award now. A witness was examined but his evidence alone cannot help us to decide the matter one way or the other. On this point my award will be that the management should follow the C. B. Award with regard to the monthly paid staff. The case for the Union is found in the written statement where it is said that they used to get a month's leave with pay before 1-7-1947.

## ISSUE No. 17

*Payment of bonus for wagon-loaders*

20. The Union's statement is that due to the irregular supply of wagons and non-recording of attendance while not providing alternative employment none of the wagon-loaders of the collieries of this management could qualify for bonus for the period 12th May to 31st December 1947, 1st January 1948 to 31st March 1948 and 1st April 1948 to 30th June 1948. During the period mentioned above they claim that the days on which wagons were not supplied should be counted as idle days for the workers and they should be paid forced idleness wages and the number of days should be added to their attendance and persons qualified should be awarded bonus.

The management in reply point out that whenever wagons are not available they were always offered alternative employment and some of the wagon-loaders accepted the alternative employment and some of them did not accept the offer. They also submit that those wagon-loaders who are qualified for bonus had been paid already. Ex. 6(17)(2), dated 6-11-48, Item No. 10 says :

"10. the non-wagon supply date be added in qualifying the bonus with wagon-loaders."

This is one of the grievance s mentioned in the strike notice. Reference has also been made to Ex. 3(2)(2), dated 28th October 1948. It is interesting to note that in the agreement that was entered into with regard to this subject on 28th October 1948 I find item No. 13 running as follows :

"In absence of railway wagons alternative employment or forced idleness allowance shall be provided or paid to wagon-loaders, and for past failures of the management the Labour Inspector will enquire and report."

In the above agreement it will be noticed that there is nothing about the bonus that the idle days should be added in the attendance, and bonus granted on that basis. Budri Sardar was examined on behalf of the Union. He says that although he asked for a job he never got it. He neither got idle compensation nor bonus. His evidence is rather vague. He began by saying that he was always

present but then he cannot say how many days he was idle though present. Moreover he was a man who was convicted under Section 143, 342 I. P. C. and was ordered by the Sessions court to pay a fine of Rs. 150/-. The management refers to Ex. I(17)(1). This is a list of persons (loading coolies) who qualified for bonus for the period ending 31st December 1947. There are two gangs in the list, one contains 17 numbers and the other contains 29 numbers. This shows that bonus was paid to those who were qualified for it and there was no laches on the part of the management in the payment thereon. Exhibits I (17)(1) (2) (3) are the lists that have been filed on this point. These people worked as loading coolies and also worked in hard coke. It was also pointed out that this grievance was not made out before the Labour Inspector. I am afraid that the Union has not been able to establish that the management failed to pay the bonus to such of the wagon loaders who were entitled for the same.

### Issue No. 18

#### *Victimisation of certain workers (cases to be specified)*

21. In dealing with cases of reinstatement various Tribunals formed under the Industrial Disputes Act in India have laid down that the dismissal or reinstatement is for the management to decide and the Tribunal should not interfere unless the action of the management comes within the description of unfair labour practice. I need not dilate much about the definition of unfair labour practice because it has been defined in various awards. One of the items is if the dismissal is on account of Trade Union activities only, then in that case reinstatement may be ordered by a Tribunal.

I will now take up the individual cases as given by the Union.

**B. N. Prasad :** He was originally the General Secretary of the East Ena Bhugodih Mazdoor Union. At first this Union according to Shri S. P. Singh, was in the good books of the management but later on when this Union merged with the Congress Khan Mazdoor Sangh the office bearers of the Union became unpopular and that is one of the reason why B. N. Prasad was selected for victimisation. They say that the various charges that were made against him not one of them refer to negligence of duty on his part. The management on the other hand point out that they never recognised any rival union and the recognised Union is called Congress Khan Mazdoor Sangh. The management says that they never victimised or dismissed the employees mentioned by the Union for their Trade Union activities. So far as B. N. Prasad is concerned he was dismissed for various acts of misconduct namely wilful insubordination, indiscipline, instigating others to commit illegal acts. He was also found guilty of a criminal offence and was sentenced for 3 months rigorous imprisonment under Section 143 and 341 I.P.C. He was charge-sheeted on 10th May 1950 and after an enquiry he was discharged from service on 23rd May 1950. I need not refer to their statement that the Conciliation Officer was satisfied with the management's action. The charge sheet is No. 120 dated 10th May 1950. There are 8 charges against him and he was asked to submit an explanation within 48 hours. But he failed to give a satisfactory explanation. Some of the charges according to the management were of a serious nature. For example they pointed out to the reply given by Prasad to the letter of the management dated 15th April in which he was asked not to defy the orders of the management. I have gone through the various letters which passed between the management and the Union in connection with B. N. Prasad's incident. I have also noticed his insistence upon working in any way he thought fit and not according to the orders passed by the management and also the fact that he has been convicted under Section 143 and 341 I. P. C. All these would go to show that he is of a temperament which would endanger the discipline in the industry. Workmen

in an industry are entitled to have their legitimate rights protected but indiscipline among the workers should not be encouraged. I see no reason to interfere with the order passed by the management about his dismissal.

There are two letters in Hindi produced by the management dated 17th May 1950 in which some of the workmen and the kamins on whose behalf he had spoken denied that they at any time asked him to write a chit on their behalf. It is not denied rather it has been admitted that the merger of the two Unions was on 5th May 1950 and that B. N. Prasad was never an office bearer of the present Union and therefore it could not be a case of victimisation on account of his union activities. It is not necessary for me to go into the matter further. The order of discharge passed by the management is justified. My award in this case is that no interference is called for on the order of discharge passed by the management.

*Guma Bhuiyan and Algarji Pandey*: These two workmen were President and Vice-President respectively of the East Ena Bhuggatdih Mazdoor Union. They were Winding Engine Khalasi and Overman respectively in East Ena and East Bhuggatdih collieries. Because the management wanted them to take out a separate procession on 15th August and these two workmen refused to do so and joined hands with the Congress Khan Mazdoor Sangh it is said that the management was annoyed. That is the reason why they were transferred to Sendra Bansjora colliery and when they strongly protested over the transfer their services were terminated. As against this the management says that the reasons for transfer of these two persons are wrongly stated by the other side. By letter dated 16th August they were transferred to Sendra Bansjora colliery where their services were needed. At first they prayed for extension of time for reporting themselves to their duties at Sendra Bansjora. Time was granted several times and ultimately they refused to join duty and took up a threatening attitude and that is why on account of their in-subordination and breach of discipline they were dismissed from service. They were also convicted under Section 143 and 342 I. P. C. and sentenced to 3 months R. I. Reference has been made to the letter dated 4th August 1950 by which orders of transfer of these two persons were made on 16th August which they deliberately refused to obey in spite of extension of time from time to time at their request. They are not office bearers of the present Union and it cannot be said that they have been victimised because of their Trade Union activities. In this view of the matter their reinstatement cannot be ordered.

*Naro Rivani and Md. Hussain*: The cases of Naro Riwani and Mohamad Hussain according to the Union is that on 13th October 1950 some of the workmen of the colliery got drunk and assaulted each other at 5-30 p.m. on that day. On 24th October 1950 a charge sheet was preferred by the management against these persons and they were falsely implicated by the management. The management terminated their services after one week's notice and this fact that a week's notice was given has been made use of by the Union against the management about the unruly conduct of these two persons. The company says that on 13th October 1950 the occurrence was not so simple as the Union tries to make out. In their disorderly conduct they damaged some of the company's properties and it was after due enquiry into the matter that their services were terminated. Naro Riwani was convicted under Section 143, and 343 I. P. C. by a judgment dated 23rd January 1951.

From another judgment it appears that these two persons were convicted by the First Class Magistrate, Dhanbad, under Section 107 of C.P. Code by a judgment dated 10th May 1951, with regard to an incident in the middle of the year 1950. It appears again that Naro Riwani and Md. Hussain were convicted under Section 147, and 325 read with 334 I.P.C. to various terms of imprisonment. From these facts it does not appear that these persons were the ordinary type of workers. At times they do not hesitate to take the law into their own hands and if the management tried to get rid of them, the Tribunal cannot in the circumstances force these employees upon the management.

The next class of persons are Sukar Bhian, Jhari Pashi, Jagdish Kurmi, Mahdeo Modak, Nakul Lohar, Islam, Jalil, Ramjit, Rudi Pashi, Pital Pashi, Basir Mian, Kaluram and Dewarka Ram. The case of the union is that according to the allegation of the management these persons raided the office of the colliery on 17th November 1950 and therefore they were discharged. This case is the subject matter of a trial before the Criminal Court. It will not be proper to express any opinion on these persons one way or the other so far as their action of 17th November 1950 is concerned. If they are not found guilty by the criminal court I am sure the management having no personal animosity against any of them will reconsider their respective cases. If the judgment of the Criminal Court is otherwise it is a serious conduct on the part of the workers to go and raid an office. Till now the only material that we have got is that they were charge-sheeted and they were dismissed after taking their explanations. At this stage I am not prepared to interfere with the order of discharge. I may mention in passing that Jalil has two previous convictions to his credit. One under Sections 143 and 342 I.P.C. where he was sentenced to pay a fine of Rs. 150/- and the other under Section 147, 325 and 337 I.P.C. where he was sentenced to 6 months R.I.

#### ISSUE No. 19

#### *Wages for bailing coolies*

22. The Union demand that the minimum basic wages awarded by the C.B. Award is As. 8 per head per day. Till August 1949 the collieries in dispute had not implemented the recommendations of the C.B. Award and the Union claims that the difference of As. 2 basic per day per head should be awarded from 12th May 1947 to August 1949. The Union submits that the bailing coolies were being paid As. 6 basic. The management submits that they have paid the bailing boys and the bailing coolies their proper wages. Since the bailing boys have accepted their wages without any protest the management submits that no grievance has been made out by the Union in this connection. It appears that the bailing coolies are getting As. 8 per day as they should. The prayer by the Union just now is that they should get the difference of As. 2 per head per day from 12th May 1947 to August 1949 but this is a different matter altogether. The reference before me is with regard to the rate of bailing coolies and I find that admittedly the management is paying As. 8 basic to the bailing coolies according to the directions contained in the C.B. Award. The Union tried to improve upon the Reference on this issue but this Tribunal cannot go into the matter at this stage.

I, therefore, give my award in terms aforesaid.

(Sd.) S. P. VARMA, *Chairman,*

*Central Government's Industrial Tribunal, Dhanbad.*

*Dhanbad, dated 16th August 1951.*

[No. LR-2(295)]

#### ORDER

*New Delhi, the 29th August 1951*

**S.R.O. 1337.**—Whereas an industrial dispute has arisen between the management of the Nanji Kujama Colliery and their workmen regarding classification of labourers working as wagon loaders ;

And whereas the Central Government considers it desirable to refer the dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal at Dhanbad, constituted under section 7 of the said Act.

[No. LR. 2(351)]

S. MULLICK, *Dy. Secy.*